



**U.S. Department of Justice
Federal Bureau of Prisons**

Washington, D.C. 20534

November 1, 2010

Jason Smathers
MuckRock. Com
185 Beacon St. #3
Somerville, MA 02143

For Further Inquiry Contact:
Federal Bureau of Prisons
320 First Street. N.W.
Room 841, HOLC Building
Washington, D.C. 20534

Re: Information Request No. 2010-12135

Dear Mr. Smathers:

This is in response to the above referenced Freedom of Information Act (FOIA) request. Specifically, you request copies of the central file and medical file maintained by the Bureau of Prisons (BOP) pertaining to Timothy McVeigh, Register No. 12076-064 (deceased). Additionally, you request a fee waiver because you believe release of these records would be in the public interest.

Title 28 Code of Federal Regulations, Part 16, provides that fees may be assessed for any search or release of records when the disclosure constitutes a release in excess of 100 pages; a search for the requested record(s) exceeds 2 hours; and where the total fees exceed \$14.00. The fee for copies of records is 10 cents per page for every page over 100. Search fees are assessed per quarter hour of search time at the rate of \$4.00 for clerical staff searches; \$7.00 per quarter hour for professional staff searches; and \$10.25 per quarter hour for managerial staff searches. Search fees may be assessed even in instances where no records are located, produced, or released. Direct cost may be assessed for expenses that an agency actually incurs in searching for and duplication records to respond to a FOIA request.

In your instant request, you have requested that the files be provided to you in electronic format. We find the following fee assessment appropriate:

Direct Costs:

Machine and operator time to scan all responsive records

GS 4/2 = \$15.08 per hour

4.25 hours to scan approximately 1700 pages = \$67.86

16% of base pay = \$10.85

Total estimated = \$78.71

The actual number of hours is estimated until the final scanning has been completed. This could also increase or decrease your fees.

Any request that exceeds \$25.00, we must receive confirmation that you are willing to pay all fees associated with this request, modify your request to meet a lower fee, or receive the first one hundred pages free and/or two hours of search time whichever comes first.

The statutory test for evaluating fee waiver requests is whether the release of the information "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester," in which event a fee waiver or reduction is required by law. 5 U.S.C. §552(a)(4)(A)(iii).

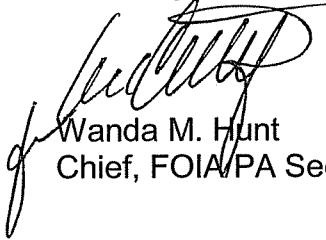
The six factors used in my determination as to whether a sufficient contribution to public understanding of government operations or activities would result from disclosure, so as to warrant the granting of a fee waiver are as follows: 1) whether the subject of the requested records concerns "the operations or activities of the government"; 2) whether the disclosure is "likely to contribute" to an understanding of government operations or activities; 3) whether disclosure of the requested information will contribute to the understanding of the general public at large; 4) whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities; 5) whether the requester has a commercial interest that would be furthered by the requested disclosure; and 6) whether any such commercial interest outweighs the public interest in disclosure.

On the basis of all of the information available to me, I have concluded that your request for a waiver of fees should be denied. In reaching my conclusion, I analyzed the above six factors as they applied to the circumstances of your request. There is no evidence that releasing the information to you will contribute to the understanding of the general public at large. The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. I am unaware of any significant public understanding of government operations or activities that would result from the release of these records sought.

Additionally, you indicate you are a news media source. Those news media requesters who meet the requirement as news media, are not charged search fees. We have not assessed any search fees in this request. However, news media requesters are still required to pay all duplication fees or direct costs.

In accordance with 28 C.F.R. § 16.11(e), you must agree to pay the estimated fees, or reformulate what you seek to reduce your fees. Be advised, duplication of the responsive records in hard copy will also result in a fee, as we charge .10 per page after the first one-hundred free pages. Thus, your fee estimate for hard copy files would be approximately \$160.00. Until we receive your response, this request will not be considered as received and no further action will be taken. However, you may appeal the decision to deny your fee waiver request to the Attorney General, Office of Information Policy, U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001. This written appeal must be received by the Office of Information Policy (OIP) within 60 days from the date of this letter. Please mark your envelope and letter "Fee Waiver Appeal."

Sincerely,

A handwritten signature in black ink, appearing to read "Wanda M. Hunt", is written over the typed name and title.

Wanda M. Hunt
Chief, FOIA/PA Section

cc: File